



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN

DIRECTOR

November 30, 1994
AO-94-39

Salim E. Kabawat, Treasurer
Massachusetts Homeowners Coalition
12 Lakeside Office Park
Wakefield, MA 01880

Re: Refund of campaign contribution

Dear Mr. Kabawat:

This letter is in response to your November 7, 1994 request for an advisory opinion.

You have stated that a contributor has asked the Massachusetts Homeowners Coalition (the Coalition) for a refund of a campaign contribution. You state that the contribution was "made freely" by the contributor.¹ The Coalition expended the funds contributed on campaign activities prior to receiving the request for a refund. The Coalition does not have an established refund policy.

For the reasons which follow, the Coalition is not obligated to refund the contribution.

Regulations issued by OCPF, 970 CMR 1.04(8), define the circumstances in which a political committee must refund a contribution:

Treasurers and candidates shall exercise their best efforts to determine whether contributions are legal at the time of receipt. Any contribution which is determined to be illegal under M.G.L. c. 55 or any other law prior to its deposit into the account of a political committee or candidate shall be returned to the contributor

¹ According to an unconfirmed newspaper report which we assume relates to the contribution, the contributor is a privately held limited partnership. A vice president of the partnership authorized the making of the contribution "without clearance from the top." Upon learning that the contribution had been made, a managing partner decided to overturn his subordinate's decision. We assume that the vice president did not intend to misappropriate the funds.

in its original form. Any contribution which is determined to be illegal, subsequent to its deposit, shall be refunded to the contributor immediately upon this determination. This refund shall be in the form of a check written to the contributor on the account of the candidate or political committee into which the original contribution was deposited. [Emphasis added].

Nothing in the facts presented in your letter would require the Coalition, at this juncture, to return the contribution. The contribution does not appear to have been illegal under M.G.L. c. 55, and the campaign finance law does not require (or permit) refund of a contribution merely upon request.² See AO-91-27. In addition, the contribution does not appear to have been illegal under any other law.

This opinion has been rendered solely on the basis of the representations made in your letter, the stated assumptions, and solely in the context of M.G.L. c. 55. Copies of the referenced regulations and advisory opinion are enclosed, for information.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,



Michael J. Sullivan
Director

MJS/cp
Enclosures

² Political committees or candidates may refund a contribution after its deposit only if acceptance of the contribution is determined to create an appearance of possible impropriety or pursuant to a refund policy established by the political committee or candidate. See 970 CMR 1.04(9).